

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

vs.

BRIAN FEDERICO and KEVIN LANEY,
Defendants

Case No.: 12-CR-00862-2 YGR
Case No.: 12-CR-00862-3 YGR

TRIAL SETTING ORDER

On May 15, 2015, the Court held a previously scheduled Pretrial Conference in the above referenced matter. Brian Lewis and Wade Rhyne appeared on behalf of the United States of America. Tim Tuitavuki appeared on behalf of defendant Brian Federico whose appearance was waived and defendant Kevin Laney appeared with counsel of record Russell S. Humphrey. Having considered the filings to date and the arguments and other submissions at the Pretrial Conference, for good cause shown the Court enters and confirms the following orders for a bench trial set for June 8, 2015:

1. Trial Schedule: Trial testimony shall occur each day from 8:30 a.m. to 1:30 p.m. on Monday through Thursday. The parties shall also be available before and after the trial date if necessary to address trial-related matters.

2. Witnesses: The parties are limited to calling the witnesses identified in filings and disclosures as set forth by the government in Docket Number 130 and by the defense which document shall be filed no later than May 22, 2015. Upon a showing of good cause, including for rebuttal or impeachment purposes, additional witnesses will be allowed only by Court order. The defendants have not identified themselves as potential witnesses and need not until immediately preceding the resting of the defense.

1 3. **Exhibits and Exhibit Lists:** The parties have made significant progress regarding
2 the identification of exhibits and the stipulation of admission thereof. The parties shall file a joint
3 exhibit list no later than June 4, 2015 which will finalize all exhibits to be used including an
4 indication of those to which the parties have stipulated that the Court may admit. The original and a
5 courtesy set shall be delivered to the Court on the same day.

6 4. **Witnesses at Trial:** The Court hereby orders that the party presenting evidence shall
7 give the other party 24 hours' notice of the witnesses to be called preceding their testimony. The
8 parties are admonished that use of trial time is critical given the limited resources of the Court. All
9 parties must have witnesses ready and available to testify. If the party presenting evidence does not
10 have a witness ready to be called once a prior witness steps down, that party may be deemed to have
11 rested its case. Witnesses *may* be taken out of order upon stipulation or with leave of Court *provided*
12 *that* the circumstances giving rise to such an accommodation are promptly called to the attention of
13 opposing counsel and the Court.

14 5. **Objections:** There shall be no "speaking objections," and no response unless
15 requested by the Court, in which case it shall be brief – e.g., "hearsay" and if a response requested,
16 "Not offered for the truth." If either counsel needs to make a better record, he/she may do so upon
17 application to the Court.

18 6. **Interpreters:** If a witness requires an interpreter, counsel are advised to carefully
19 review and be prepared to satisfy the Court that the interpreter is offered in compliance with
20 28 U.S.C. §§ 1827 - 1828, Fed. R. Evid. 604, Fed. R. Crim. Pro. 28, and all Local Rules.

21 7. **Requests for Transcripts:** If transcripts will be requested during or immediately
22 after the trial, arrangements must be made with the Court Reporter Coordinator (Telephone No. 510-
23 637-3534) **at least** one week prior to the commencement of the trial.

24 8. **Trial Briefing:** To facilitate an expeditious resolution of this matter, the parties
25 shall prepare and file a Joint Statement of Proven and Disputed Facts Based Upon Trial Evidence.
26 They shall meet and confer on Friday, June 12 and 19, 2015 to facilitate the preparation and filing of
27 the same. The Court will revisit whether briefing will be required of any particular issue.
28

9. **Trial Decorum and Procedure:** Counsel, parties, and witnesses are expected to conduct themselves at all times – on or off the record – in a professional and courteous manner during trial. Do NOT approach other parties’ witnesses without permission.